



DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2023-OELA-0132]

**Proposed Priorities, Requirements, and Definitions--
National Professional Development Program**

AGENCY: Office of English Language Acquisition, Department of Education.

ACTION: Proposed priorities, requirements, and definitions.

SUMMARY: The Department of Education (Department) proposes priorities, requirements, and definitions for use in the National Professional Development (NPD) program, Assistance Listing Number 84.365Z. The Department may use one or more of these priorities, requirements, and definitions for competitions in fiscal year (FY) 2023 and later years. We intend for these priorities, requirements, and definitions to increase the number of bilingual and multilingual teachers supporting English language learners.

DATES: We must receive your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at www.regulations.gov. However, if you require an accommodation or cannot otherwise submit your comments via www.regulations.gov, please contact the

program contact person listed under FOR FURTHER INFORMATION CONTACT. The Department will not accept comments submitted after the comment period closes. To ensure the Department does not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "FAQ."

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Francisco Javier López, U.S. Department of Education, 400 Maryland Avenue, SW., Room H3215, PCP, Washington, DC 20202. Telephone: (202) 558-4880. Email: NPPNPD@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments

regarding the proposed priorities, requirements, and definitions. To ensure that your comments have maximum effect in developing the final priorities, requirements, and definitions, we urge you to identify clearly the specific proposed priorities, requirements, and definitions that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 14094 and their overall requirement of reducing regulatory burden that might result from these proposed priorities, requirements, and definitions. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect public comments about the proposed priorities, requirements, and definitions by accessing Regulations.gov. To inspect comments in person, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities, requirements, and definitions. If you want to schedule an appointment for

this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The NPD program, authorized by sections 3111(c)(1)(C) and 3131 of the Elementary and Secondary Education Act of 1965 (ESEA), provides grants to institutions of higher education (IHEs) or public or private entities with relevant experience and capacity, in consortia with State educational agencies (SEAs) or local educational agencies (LEAs), to implement pre-service and in-service professional development activities intended to improve instruction for English Learners (ELs) and assist education personnel working with ELs to meet high professional standards.

Program Authority: 20 U.S.C. 6861.

PROPOSED PRIORITIES:

The Department proposes the following three priorities for this program. We may use one or more of these priorities in any year in which this program is in effect.

Background:

"Raise the Bar (RTB): Lead the World" is the Department's call to action to transform prekindergarten through postsecondary learning and unite around what truly works by promoting academic excellence, boldly improving learning conditions, and preparing our Nation's students for global competitiveness.¹ A robust and sustainable

¹ <https://www.ed.gov/raisethebar/>.

educator workforce available to educate and support all children and youth is essential to this call to action. The priorities proposed in this document would advance many of these goals. Specifically, we are proposing priorities designed to help eliminate the educator shortage, increase services for our students who are English learners, and expand pathways to multilingualism for all students.

A growing body of evidence suggests that diverse classroom settings, such as in bilingual and multilingual education, may be positively associated with students' ability to empathize and relate to others, have long-term career benefits, and result in a higher degree of literacy.² Learning another language from a young age is an asset that prepares all students for an increasingly globalized economy. Globally, adults who are bilingual and biliterate have more job opportunities than monolingual adults.³ Fostering a culture of language-learning for all students also communicates to linguistically marginalized students that their heritage languages and home identities are valuable and welcomed in school.⁴

While there is a rich and diverse population of both

² Commission on Language Learning. *America's Language* (2017). Investing in Language Education for the 21st Century. American Academy of Arts and Sciences: Cambridge, Massachusetts.

³ Zelasko, N., & Antunez, B. (2000). If your child learns in two languages. National Clearinghouse for Bilingual Education. Retrieved from http://www.ncela.gwu.edu/files/uploads/9/IfYourChildLearnsInTwoLangs_English.pdf.

⁴ *Analyzing the Curricularization of Language in Two-Way Immersion Education: Restating Two Cautionary Notes* (Valdés, 2018).

ELs and native English speakers who would benefit from bilingual education, there is a shortage of bilingual and multilingual teachers prepared to teach a growing population of ELs and to make multilingualism a reality for all. According to 2019-20 data reported by SEAs for the Title III State Formula Grant Program, the number of K-12 students that were identified as ELs increased 2.6 percent from the previous school year. Yet, the number of certified EL instructors decreased by almost 43,000 educators or 10.4 percent from the previous school year.⁵ Additionally, in a joint publication by The Century Foundation and the Children's Equity Project, the researchers noted, "just one in eight American teachers speaks a non-English language at home . . . [and of those] teachers who are linguistically diverse, many are not trained or credentialed to provide academic instruction in non-English languages."⁶

The NPD program, as a pre-service and in-service professional development program, is uniquely positioned to support the Department's RTB goals by helping to ensure that ELs have access to well-prepared educators and by growing our numbers of bilingual and multilingual educators

⁵ <https://ncela.ed.gov/sites/default/files/2023-05/OELABiennialReportSYs2018-20b-508.pdf>.

⁶ Williams, C. P., Meek, S., Marcus, M., Zabala, J. (2023). Ensuring Equitable Access to Dual-Language Immersion Programs: Supporting English Learners' Emerging Bilingualism. Retrieved from <https://tcf.org/content/report/ensuring-equitable-access-to-dual-language-immersion-programs-supporting-english-learners-emerging-bilingualism/>.

in order to expand the availability of bilingual programs.

The priorities proposed in this document focus on pre-service programs and in-service professional development designed to expand the numbers of bilingual or multilingual teachers and other staff, including through grow-your-own (GYO) efforts. Initial research⁷ suggests that GYO efforts may be particularly effective in recruiting educators who reflect the diversity of our students, in this case, ELs who are a growing resource that can be encouraged and recruited to pursue careers as bilingual and multilingual teachers. Many GYO programs also extend support to paraprofessionals, high-quality substitute teachers, and others in a community who are interested in transitioning into roles as educators by supporting their training and path to certification.

Additionally, we continue to emphasize and elevate supports for students from low-income backgrounds by proposing a priority and a corresponding definition that focuses on enrolling specific percentages of teacher candidates who are from low-income backgrounds. Thirty-seven percent of ELs are from disadvantaged family backgrounds who are living in poverty, and schools that have higher concentrations of ELs tend to be high-poverty

⁷ Strategies for Designing, Implementing, and Evaluating Grow-Your-Own Teacher Programs for Educators (2017). REL Northwest. Retrieved from <https://ies.ed.gov/ncee/edlabs/regions/northwest/pdf/strategies-for-educators.pdf>.

schools.⁸ Students, particularly emerging bilingual and multilingual students, from low-income backgrounds are a critical part of addressing the need to provide culturally and linguistically relevant teaching in high-need schools and to give all students the opportunity to be taught by diverse educators. We are proposing a definition using Pell eligibility as a proxy for determining whether students are from low-income backgrounds given that Pell eligibility takes into account variables such as family income and family size. Further, we believe the data needed to demonstrate Pell eligibility is easily accessible to IHEs and other potential applicants that partner with IHEs who can obtain student aid information.

As the EL population continues to grow, and as our global economy becomes more interconnected, it is increasingly important to focus efforts on addressing the shortage of teachers and other staff licensed and certified to work with ELs and to provide opportunities for all students to benefit from bilingual or multilingual instruction.

Proposed Priority 1—Increase the Number of Bilingual or Multilingual Teachers Through Pre-Service Programs.

Projects that propose to increase the number of

⁸ Quintero, D. & Hansen, M. (2021). As we tackle school segregation, don't forget about English Learner students. The Brookings Institution. Retrieved from <https://www.brookings.edu/blog/brown-center-chalkboard/2021/01/14/as-we-tackle-school-segregation-dont-forget-about-english-learner-students/>.

licensed or certified bilingual or multilingual teachers working in language instruction educational programs or serving ELs, and improve their qualifications and skills, through evidence-based pre-service programs. Applicants must describe their plan for recruiting, supporting, and retaining bilingual or multilingual teacher candidates, which must include grow-your-own (GYO) efforts that are designed to address shortages of bilingual or multilingual teachers and increase the diversity of qualified individuals entering the educator workforce. Applicants must include in their proposed plan one or more of the following GYO strategies:

- Supporting bilingual or multilingual paraprofessionals actively working in P-12 schools in becoming teachers.
- Creating pathway programs for middle and high school students who are pursuing seals of biliteracy to become teachers.
- Recruiting individuals who may have a teaching credential but have not been teaching in bilingual or multilingual education settings.
- Offering registered apprenticeship programs for teachers that establish, scale, and build on existing high-quality pathways into bilingual or multilingual education settings.
- Implementing other evidence-based GYO efforts for

bilingual or multilingual individuals.

Proposed Priority 2—Service to Low-Income Students.

Projects that propose to recruit, train, and retain in the pre-service program classes of participants for which one or more of the following conditions are met:

(a) At least 30 percent of the participants are low-income students.

(b) At least 40 percent of the participants are low-income students.

(c) At least 50 percent of the participants are low-income students.

Proposed Priority 3—Improve In-Service Professional Development Programs Targeting Bilingual or Multilingual Educational Personnel Who Serve English Learners.

Projects that propose evidence-based in-service professional development programs designed to expand the number, and improve the qualifications and skills, of bilingual or multilingual educational personnel working in language instruction educational programs or serving ELs, including educational paraprofessionals and personnel who are not certified or licensed.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of

each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

PROPOSED REQUIREMENTS:

The Department proposes the following requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

Proposed Application Requirements: An applicant must provide the indicators it proposes to use to determine if a participant meets the definition of "bilingual or multilingual." Applicants may provide this information in

response to the selection criteria, or otherwise as applicable in their applications.

PROPOSED DEFINITIONS:

The Department proposes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Bilingual or multilingual means able to listen, speak, read, and write in two or more languages with at least a high level of proficiency in each language, as determined based on indicators of proficiency established by the grantee.

Low-income student means a student—

(a) Who is eligible to receive a Federal Pell Grant for the award year for which the determination is made; or

(b) Who would otherwise be eligible to receive a Federal Pell Grant for the award year for which the determination is made, except that the student fails to meet the requirements of section 484(a)(5) of the Higher Education Act, 20 U.S.C. 1091(a)(5), because the student is in the United States for a temporary purpose.

Pre-service means the period of training for a person who does not have a prior teaching certification or license and who is enrolled in a teacher education program at an institution of higher education.

Final Priorities, Requirements, and Definitions:

We will announce the final priorities, requirements,

and definitions in the *Federal Register*. We will determine the final priorities, requirements, and definitions after considering responses to the proposed priorities, requirements, and definitions and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use one or more of these priorities, requirements, and definitions, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866, 13563, and 14094

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product); or adversely affect in a material way the economy, a sector of

the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities, or the principles set forth in this Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866, as amended by Executive Order 14094.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866, as amended by Executive Order 14094. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned

determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that

might result from technological innovation or anticipated behavioral changes.”

We are issuing these proposed priorities, requirements, and definitions only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum “Plain Language in Government Writing” require each agency to write regulations that are easy to understand. The Secretary invites comments on how to make these

proposed priorities, requirements, and definitions easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed priorities, requirements, and definitions clearly stated?
- Do the proposed priorities, requirements, and definitions contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed priorities, requirements, and definitions (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed priorities, requirements, and definitions be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed priorities, requirements, and definitions in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed priorities, requirements, and definitions easier to understand? If so, how?
- What else could we do to make the proposed priorities, requirements, and definitions easier to understand?

To send any comments that concern how the Department could make these proposed priorities, requirements, and definitions easier to understand, see the instructions in

the ADDRESSES section.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed priorities, requirements, and definitions would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this proposed regulatory action would affect are IHEs, or public or private entities

with relevant experience and capacity, in consortia with LEAs or SEAs applying for and receiving funds under this program. The Secretary believes that the costs imposed on applicants by the proposed priorities, requirements, and definitions would be limited to paperwork burden related to preparing an application and that the benefits would outweigh any costs incurred by applicants.

Participation in this program is voluntary. For this reason, the proposed priorities, requirements, and definitions would impose no burden on small entities in general. Eligible applicants would determine whether to apply for funds and have the opportunity to weigh the requirements for preparing applications, and any associated costs, against the likelihood of receiving funding and the requirements for implementing projects under the program. Eligible applicants most likely would apply only if they determine that the likely benefits exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of that application to seek funding from other sources to address a shortage in bilingual or multilingual teachers working in a language instruction education program or serving ELs.

Paperwork Reduction Act of 1995

These proposed priorities, requirements, and

definitions do not contain any information collection requirements.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

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Assistant Deputy Secretary and

Director for the Office of English Language Acquisition.

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